

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

September 17, 2007

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Sims, Associate Justice; Nicholson, Associate Justice; and Horner, bailiff.

**C050885 STOCKTON CITIZENS FOR SENSIBLE PLANNING v. CITY OF STOCKTON
et al., and A.G. SPANOS CONSTRUCTION et al.**

Cause called. Lawrence S. Bazel argued for appellant A. G. Spanos Construction, Inc., et al. and Arthur J. Friedman argued for appellant Wal-Mart. William D. Kopper argued for respondent Stockton Citizens for Sensible Planning. Cause submitted.

At 10:03 a.m. the court recessed. At 10:07 a.m. the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C053843 THE PEOPLE v. COOPER

Cause called. Victor J. Morse, court appointed counsel, argued for appellant. Laura Wetzl Simpton, Deputy Attorney General, argued for respondent. Cause submitted.

C053601 WONG v. CITY OF STOCKTON et al.

Cause called. Donald a. Wilson argued for appellant. Charmain Jackson argued for respondents. Cause submitted.

At 10:47 a.m. the court recessed. At 2:01 p.m. the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Davis, Associate Justice.

C053700 ROMERO v. PACIFIC GAS AND ELECTRIC COMPANY et al.

Cause called. Kevin Farnsworth argued for appellant. Marla R. Weston argued for respondents. Cause submitted.

At 2:19 p.m. the court recessed. At 2:20 p.m. the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

C052368 ZABALDO v. USAA CASUALTY INSURANCE COMPANY

Cause called. Perry A. Irvine argued for appellant. Keith D. Chidlaw argued for respondent. Cause submitted.

At 2:54 p.m. the court recessed. At 2:57 p.m. the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

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Court Minutes

September 17, 2007, continued

C053576 In re ANTHONY M.; THE PEOPLE v. ANTHONY M.

Cause called. Robert F. Kane, court appointed counsel, argued for appellant. Eric L. Christoffersen, Deputy Attorney General, argued for respondent.

At 3.25 p.m. the court recessed until 9:30 a.m., Tuesday, September 18, 2007.

C052569 THE PEOPLE v. LOWNEY (Not for Publication)

The judgment is modified to strike the \$600 probation revocation fine ... and the matter is remanded to the trial court with directions ... In all other respects, the judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.
Morrison, J.

C052756 THE PEOPLE v. BOLEY (Not for Publication)

The judgment is modified to extend defendant's commitment to May 11, 2007. As modified, the judgment is affirmed.

NICHOLSON, ACTING P.J.

We Concur: Raye, J.
Robie, J.

C054841 THE PEOPLE v. BERKELEY (Not for Publication)

The judgment is affirmed.

HULL, J.

We Concur: Sims, Acting P.J.
Robie, J.

C055195 THE PEOPLE v. CHIPLEY (Not for Publication)

The judgment is affirmed.

NICHOLSON, ACTING P.J.

We Concur: Hull, J.
Cantil-Sakauye, J.

C052704 THE POCKET PROTECTORS v. CITY OF SACRAMENTO et al; REGIS HOMES OF NO. CALIFORNIA, INC., et al. (Not for Publication)

The judgment is affirmed. Respondents shall recover their costs on appeal. ...

SIMS, ACTING P.J.

We Concur: Nicholson, J.
Butz, J.

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Court Minutes

September 17, 2007, continued

- C052753 IN RE J.F; THE PEOPLE v. J.F. (Not for Publication)**
The juvenile court's findings and orders are affirmed.
NICHOLSON, ACTING P.J.
We Concur: Butz, J.
Cantil-Sakauye, J.
- C052944 IN RE J.S; THE PEOPLE v. J.S. (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Raye, J.
- C054246 In re JULIAN B; THE PEOPLE v. (Not for Publication)**
JULIAN B.
The judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Scotland, P.J.
Morrison, J.
- C055229 In re K.C; SACRAMENTO COUNTY (Not for Publication)**
DEPARTMENT OF HEALTH AND HUMAN SERVICES v. K.M.
The orders of the juvenile court denying appellant's petition for
modification and terminating appellant's parental rights are affirmed.
CANTIL-SAKAUYE, J.
We Concur: Davis, Acting P.J.
Raye, J.
- C049624 THE PEOPLE v. MCROBERTS**
BY THE COURT:
Appellant's petition for rehearing is denied.
SCOTLAND, P.J.
- C052887 THE PEOPLE v. WOODS**
BY THE COURT:
Appellant's petition for rehearing is denied.
BLEASE, ACTING P.J.

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September 18, 2007

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice; and Haskett, bailiff.

C052215 EURO STARS SALES & DISMANTLING et al. v. BOURKOV

Cause called. There was no appearance by appellant. Robert P. Biegler argued for respondent. Cause submitted.

At 9:34 a.m. the court recessed. At 9:39 a.m. the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

C053253 SAGER v. COUNTY OF YUBA

Cause called. Carl Fessenden argued for appellant. Steven W. Welty argued for respondent. Cause submitted.

At 10:08 a.m. the court recessed. At 10:11 a.m. the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C053185 CLARK et al., v. TRANSPACK CORPORATION et al.

Cause called. Shelley S. Buchanan argued for appellants. Darlene C. Vigil argued for respondent. Cause submitted.

At 10:27 the court recessed. At 10:31 a.m. the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

C052703 PATTERSON v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

Cause called. Jerry M. Duncan argued for appellant. Domenic D. Spinelli argued for respondent. Cause submitted.

At 11:01 a.m. the court recessed. At 2:01 p.m. the court reconvened with Davis, Associate Justice; Hull Associate Justice; and Cantil-Sakauye, Associate Justice.

C050431 THE PEOPLE v. SANFORD

Cause called. Maribeth Halloran, court appointed counsel, argued for appellant. Peter H. Smith, Deputy Attorney General, argued for respondent. Cause submitted

At 2:26 p.m. the court recessed until 9:30 a.m., Wednesday, September 19, 2007.

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Court Minutes

September 18, 2007, continued

- C052658 THE PEOPLE v. CONTRERAS (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We Concur: Scotland, P.J.
Davis, J.
- C053115 THE PEOPLE v. SCOTT (Not for Publication)**
The judgment is affirmed.
BUTZ, J.
We Concur: Scotland, P.J.
Morrison, J.
- C053878 THE PEOPLE v. RANDALL (Certified for Publication)**
The trial court is directed to amend the abstract of judgment, ... forward a copy of the amended abstract to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.
HULL, J.
We Concur: Sims, Acting P.J.
Robie, J.
- C053911 THE PEOPLE v. ZUNIGA (Not for Publication)**
The judgment and sentence are affirmed. The trial court is directed to amend the abstract of judgment accordingly and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
CANTIL-SAKAUYE, J.
We Concur: Scotland, P.J.
Davis, J.
- C054309 THE PEOPLE v. MORI (Not for Publication)**
The trial court's judgment is affirmed.
DAVIS, ACTING P.J.
We Concur: Raye, J.
Cantil-Sakauye, J.
- C054316 THE PEOPLE v. RUSSELL (Not for Publication)**
The judgment is affirmed. The trial court is directed to amend the abstract of judgment ... The trial court is further directed to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
SCOTLAND, P.J.
We Concur: Davis, J.
Cantil-Sakauye, J.

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September 18, 2007, continued

- C054611 THE PEOPLE v. MURRAY (Not for Publication)**
The superior court is directed to amend the abstract of judgment accordingly and to forward a certified copy ... to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.
RAYE, P.J.
We Concur: Davis, Acting J.
Cantil-Sakauye, J.
- C054803 THE PEOPLE v. PETKUS (Not for Publication)**
The judgment and sentence are affirmed.
CANTIL-SAKAUYE, J.
We Concur: Scotland, P.J.
Davis, J.
- C051544 VERGARA v. HERITAGE COMM. (Not for Publication)**
CREDIT UNION et al.
The judgment is affirmed. Vergara shall pay Melmet's and Heritage's costs on appeal.
MORRISON, J.
We Concur: Sims, Acting P.J.
Robie, J.

September 19, 2007

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Davis, Associate Justice; and Hull, Associate Justice; and Harper, bailiff.

- C052818 STRONG, as Assessor, etc., v. STATE BOARD OF EQUALIZATION et al.**
Cause called. Ronald S. Erickson, County Counsel, argued and Dennis M. Cota appeared only for appellants. Daniel J. Powell argued and Melanie Rowen appeared only for interveners and for respondents Equality California et al. George C. Spanos, Deputy Attorney General argued for defendant and respondent State Board of Equalization.

At 10:03 a.m. the court recessed. At 10:07 a.m., the court reconvened with Davis, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

- C051588 THE PEOPLE v. LARSEN**
Cause Called. Neil S. Tardiff argued for appellant. Maureen A. Daly, Deputy Attorney General, argued for respondent. Cause submitted.

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September 19, 2007, continued

C054546 BRADWELL v. THE SUPERIOR COURT OF PLACER COUNTY et al.

Cause called. Erick R. Beauchamp, Deputy Public Defender, argued for petitioner. Peter H. Smith, Deputy Attorney General, argued for real party in interest. Cause submitted.

At 10:51 the court recessed. At 10:57 a.m. the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice, and Hull, Associate Justice.

C052063 DICKINSON v. UNION PACIFIC RAILROAD COMPANY

Cause submitted. Anthony S. Petru argued for appellant. There was no appearance by respondent. Cause submitted.

At 10:59 a.m. the court recessed. At 1:59 p.m. the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

C053453 RINCON BAND OF LUISENO MISSION INDIANS OF THE RINCON RESERVATION v. STATE OF CALIFORNIA et al.

Cause called. Scott Crowell argued for appellant. Kaufman, Deputy Attorney General, argued for respondents. Cause submitted.

At 2:28 p.m. the court recessed. At 2:32 p.m. the court reconvened with Davis, Associate Justice, Raye, Associate Justice; and Robie, Associate Justice.

C055329 TRAVELERS INDEMNITY COMPANY OF ILLINOIS v. WORKERS' COMPENSATION APPEALS BOARD and KATHY BRYER

Cause called. James E. Swenson, Jr. argued for petitioner. No appearance by respondent Workers' Compensation Appeals Board. Jeff Duarte argued for respondent Kathy Bryer. Cause submitted.

At 2:45 p.m. the court recessed. At 2:47 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Raye, Associate Justice.

C052729 HERMAN v. SIMARD et al.

Cause called. Arnold J. Wolf argued and Coren D. Wong appeared only for appellant. Christopher Merrill argued and David A. Bader appeared only for respondent. Cause submitted.

At 3:17 p.m. the court recessed until 9: 30 am. , Monday, September 24, 2007.

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September 19, 2007, continued

C046319	THE PEOPLE v. LIGGION (Opinion on Remand from the U.S. Supreme Court) The judgment is affirmed. DAVIS, J. We Concur: Sims, Acting P.J. Hull, J.	
C051948	THE PEOPLE v BROWNING The judgment is affirmed. ROBIE, J. We Concur: Blease, Acting P.J. Davis, J.	(Not for Publication)
C052305	THE PEOPLE v. WHATLEY The judgment is affirmed. ROBIE, J. We Concur: Blease, Acting P.J. Hull, J.	(Not for Publication)
C054775	THE PEOPLE v. DANIELS The judgment is affirmed. NICHOLSON, Acting P.J. We concur: Hull, J. Cantil-Sakauye, J.	(Not for Publication)
C047172	CAPEN v. SHEWRY, etc., el al. For reasons set forth ...the judgment voiding the interpretive regulation of the Department is affirmed. Dr. Capen shall recover his costs on appeal. BLEASE, Acting P.J. We Concur: Morrison, J. Butz, J.	(Certified for Publication)
C051955	In re NATHANIEL M; THE PEOPLE v. NATHANIEL M. The judgment is affirmed. CANTIL-SAKAUYE, J. We Concur: Blease, Acting P.J Morrison, J.	(Not for Publication)
C048432	THE PEOPLE v. JONES BY THE COURT: Appellant's petition for rehearing is denied. SCOTLAND, P.J.	

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September 19, 2007, continued

THE COURT:

BY THE COURT:

September 20, 2007

Defendant's convictions and sentences for possession... transportation... are reversed and the sentence vacated. If within 30 days after... remittitur, the People have not filed... an election to retry... counts, the trial court shall resentence defendant accordingly. If the People file an election to retry these counts, the trial court shall resentence defendant on all counts after the retrial.... In all other respects... convictions are affirmed.

September 21, 2007

The portion of the appeal from the order denying the request for a statement of decision is dismissed. The judgment is reversed and the matter remanded to recalculate the interest rate on the community assets, and to debit and credit the respective parties only one-half of the \$35,000 expended on appellant Rye's legal fees. Neither party shall recover costs of appeal.

We Concur: Blease, Acting P.J.
 Sims, J.

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September 21, 2007 (continued)

The WCAB's order denying the city's petition for reconsideration is annulled. The matter is remanded for further proceedings consistent with the views expressed herein. The parties shall bear their own costs in the proceedings before this court.

We Concur: Davis, Acting P.J.
Raye, J.